

Form PTO-1390  
(REV. 11-2000)

U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

ATTORNEY DOCKET NUMBER  
5051-660

**TRANSMITTAL LETTER TO THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)  
CONCERNING A FILING UNDER 35 U.S.C. 371**

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)

**10/530151**

INTERNATIONAL APPLICATION NO.  
**PCT/US03/33637**

INTERNATIONAL FILING DATE  
**17 October 2003**

PRIORITY DATE CLAIMED  
**24 October 2002**

TITLE OF INVENTION

**WATER SOLUBLE TOXIN PRODUCED BY PHIESTERIA SPECIES**

APPLICANT(S) FOR DO/EO/US

**BURKHOLDER, JoAnn, GLASGOW, Howard, Jr., RAMSDELL, John, S., MOELLER, Peter, D.R., and MORTON, Stephen, I.**

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (22) indicated below.
4. ☐ The US has been elected by the expiration of 19 months from the priority date (Article 31).
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
  - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
  - b. ☒ has been communicated by the International Bureau.
  - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
  - a. ☐ is attached hereto.
  - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4)
7. ☐ Amendments to the claims of the International Application Under PCT Article 19 (35 U.S.C. 371(c)(3))
  - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ have been communicated by the International Bureau.
  - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
  - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☐ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes of the International Preliminary Examination Report Under PCT Article 36 (35 U.S.C. 371(c)(5)).

**Items 11 to 21 below concern document(s) or information included:**

11. ☒ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☐ A **FIRST** preliminary amendment.
14. ☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
15. ☐ An Application Data Sheet under 37 CFR 1.76.
16. ☐ A substitute specification.
17. ☐ A change of power of attorney and/or address letter.
18. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825.
19. ☒ A second copy of the published international application under 35 U.S.C. 154(d)(4).
20. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4)
21. ☐ Other items or information:

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21. The following fees are submitted:

- a) Basic national fee..... \$300.00  
b) Examination fee..... \$200.00  
c) Search fee..... \$500.00

TOTAL OF ABOVE CALCULATIONS = \$1000.00

☐ Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.

Total Sheets	Extra sheets	Number of each additional 50 or fraction thereof (round up to a whole number)	RATE
16-100+	-/50+	0	X \$250.00

Surcharge of \$130.00 for furnishing the oath or declaration later than ☐ 20 ☐ 30 months from the earliest claimed priority date (37 CFR 1.492(e)).

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE
Total claims	13- 20 =	0	x \$ 50.00
Independent Claims	2- 3 =	0	x \$200.00
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$360.00

TOTAL OF ABOVE CALCULATIONS = \$0

☐ Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2

SUBTOTAL =

Processing fee of \$130.00 for furnishing the English translation later than ☐ 20 ☐ 30 months from the earliest claimed priority date (37 CFR 1.492(f)).

TOTAL NATIONAL FEE = \$1000.00

Fee for Recording the enclosed assignment (37 CFR 1.21(h)). The assignment is accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per fee + 100.00 DA

TOTAL FEES ENCLOSED = \$

Amount to be  
refunded: \$  
charged: \$

a. ☐ A check in the amount of \$ to cover the above fees is enclosed.

b. ☒ Please charge my Deposit Account No. 50-0220 in the amount of \$500.00. A duplicate copy of this sheet is enclosed.

c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-0220. A duplicate copy of this sheet is enclosed.

d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

Myers Bigel Sibley & Sajovec, P.A.  
P. O. Box 37428  
Raleigh, North Carolina 27627  
Facsimile: (919) 854-1401  
Customer No. 20792

Kenneth D. Sibley, Reg. No. 31,665

Date: April 1, 2005

## CERTIFICATE OF EXPRESS MAILING

Express Mail Label No. EV 674759245 US

Date of Deposit: April 1, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450.

Evelyn Casey